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PTO/SB/33 (07-09)
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
BCS03852

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on _____

Signature _____

Typed or printed name _____

Application Number	Filed
10/017,675	December 15, 2001

First Named Inventor
Alexander Vasilevsky

Art Unit	Examiner
2621	ATALA, JAMIE JO

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 44,489.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Larry T. Cullen/
Signature

Larry T. Cullen
Typed or printed name

215-323-1797
Telephone number

September 30, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLN. NO.:	10/017,675	CONFIRMATION NO.:	9565
APPLICANT:	Vasilevsky et al.	TC/ART UNIT:	2621
FILED:	December 15, 2001	EXAMINER:	ATALA, JAMIE JO
TITLE:	Centralized Digital Video Recording and Playback System Accessible to Multiple Reproduction and Control Units via a Home Area Network		

Pre-Appeal Brief

This reply is being filed electronically

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed on March 31, 2010, a request for a three month extension up to September 30 2010 and a Notice of Appeal being submitted herewith, Applicant respectfully requests reconsideration as follows:

REMARKS

Rejection of Claims 1-4, 6-12, and 14-15 under 35 U.S.C. § 103(a) as being unpatentable over US 5,550,863 (Yurt) in view of US 2002/0059621 (Thomas) in view of US 6,799,283 (Tamai et al.) and in view of US 6,300,976 (Fujuoka).

Applicant respectfully traverses in part and amends in part. Applicant has amended independent claims 1 and 8 to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1-4, 6-12, and 14-15 under 35 U.S.C. § 103(a) as being unpatentable over Yurt in view of Thomas as herein amended.

Applicant respectfully submits that neither Yurt, Thomas, Tamai nor Fukuoka, taken alone or in combination, does not teach or suggest all the claim limitations as set forth in independent claims 1 and 8, as amended. For example, independent claim 1 is amended to incorporate the subject matter of claim 3 as "*designating* as part of a hierarchy, *a control ranking* to each of said *first and second reproduction devices*; and during *control conflicts*, allowing the *reproduction device* attempting to control playback having the *highest control ranking*, to *control the reproduction* of said selected program" and independent claim 8 is amended to incorporate the subject matter of claim 11 as "wherein each of said first and second *reproduction devices are designated* to have, as part of a hierarchy, *a control ranking*, and during *control conflicts*, the *reproduction device* attempting to control playback *having the highest control ranking*, *controls the reproduction* of said selected program" which are not taught or suggested in the combination of Yurt and Thomas.

Yurt is directed towards a system of distributing video and/or audio information that employs digital signal processing to achieve high rates of data compression. In operation, the compressed and encoded audio and/or video information is sent over standard telephone, cable or satellite broadcast channels to subscriber's receiver, for later playback. (Yurt, Abstract)

Thomas discloses a system that allows a user to access his/her own on-demand media account from user equipment in different locations as long as the current user equipment can communicate with a remote server that stores user-specific information. Thomas's system has a relocate feature that may allow a user to freeze on-demand media delivery on one user equipment and resume delivery and viewing from other user equipment. (Thomas, Abstract)

Tamai is directed toward a disk drive array system which is configured to store redundant data by distributing data blocks across the various disk drives. (Tamai, Abstract). The reliance on Tamai is misplaced. Tamai is primarily aimed at preventing loss of data by providing redundant data. The priority discussed in Tamai identified in the Office action (col. 13: 48 – 14: 65) pertains to controlling which data block a particular disk drive accesses to access for different access requests from a host device ("the array controller generates a read or write request with predetermined priority for each recording medium"). The priority is not related to different reproduction devices which request provide the same program to a viewer. Tamai does not disclose to designate as part of a hierarchy, a control ranking to each of said first and second reproduction devices; and during control conflicts, allowing the reproduction device attempting to control playback having the highest control ranking, to control the reproduction of said selected program.

The Office action appears to now rely on Fukuoka to make up the deficiencies of the combination of Yurt, Thomas and Tamai. However, Fukuoka merely discloses a camera which can select a memory to which an image may be stored. Fukuoka does not disclose or suggest using a control ranking related to digital video recording and playback devices, as set forth in the above claims. The citations to Fukuoka in the Office action do not disclose such and do not appear to be related to reproduction at all, let alone a centralized video playback system. Indeed, Fukuoka does not appear to discuss playing back video stored on one device on another device in any detail.

Furthermore, Fukuoka does not appear to be analogous prior art. Fukuoka is related to a digital camera which mainly stores still images on a removable memory card. Fukuoka merely receives camera control data from other devices (e.g. a computer), which may control how photographs are taken. Fukuoka clearly is not related to a centralized digital video recording (DVR) and playback system in a home network, and one of skill in the art clearly would not look to a digital camera as a DVR system.

For the above reasons, Applicant submits that claims 1 and 8 are not obvious in view of the combination of Thomas, Tamai, Yurt, and Fukoda, and therefore that the rejection of claims 1 and 8 under 35 USC 103(a) should be withdrawn. Applicant requests that claims 1 and 8 may now be passed to allowance.

Claims 2, 4, 6, and 7 depend from, and include all the limitations of independent claim 1, as amended. Claim 9, 10, 12, 14, and 15 depend from, and include all the limitations of independent claim 8. Claims 3 and 11 are cancelled. Therefore, Applicant respectfully requests withdrawal of the rejection of claims 1-4, 6-12, and 14-15 under 35 USC 103(a).

Conclusion

Applicant has reviewed the other references of record and believes that Applicant's claimed invention is patentably distinct and nonobvious over each reference taken alone or in combination. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Date: September 30, 2010

Respectfully submitted,

By: /Larry T. Cullen/
Larry T. Cullen
Reg. No.: 44,489

Motorola Connected Home Solutions
101 Tournament Drive
Horsham, PA 19044
(215) 323-1797